

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 721 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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J A TRIVEDI

Versus

STATE OF GUJARAT

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Appearance:

MS SANGEETA VISHIN for Petitioner

None present for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/03/98

ORAL JUDGMENT

The petitioner, who was holding the post of Primary Education Officer in the Education Department of the Government of Gujarat, was posted as Assistant Secretary in Head Quarter of Primary Education Reform Commission, Gandhinagar, vide order dated 16.10.84. He was given this appointment in his own pay scale, i.e. of District Primary Education Officer. He joined this post on 2.11.84 and worked on this post till 15.1.86. Under

the order dated 4.1.86, the petitioner has been posted as Secretary in his own pay scale, i.e. of District Primary Education Officer. This post he joined on 16.1.86. The posts of Assistant Secretary and Secretary have been created in the Primary Education Reform Commission at Gandhinagar under the order dated 11.5.84 in the pay scale of Rs.900-1500 and Rs.1100-1600 respectively. The pay scale for the post of District Primary Education Officer was that of Rs.700-1500. The pay scale for the post of Secretary further came to be revised under the order dated 16.5.84 to Rs.1600-2000. The petitioner in this Special Civil Application prayed for directions to the respondent to pay him the pay in the pay scale of Assistant Secretary from 2.11.84 to 15.1.86 and in the pay scale of Secretary from 16.1.86 with all consequential benefits.

2. So far as the claim of the petitioner for the pay scale of Assistant Secretary is concerned, there is all possibility that on the date on which the petitioner has been ordered to be posted as Assistant Secretary, his pay scale would have crossed Rs.900/-, but so far as the post of Secretary is concerned, certainly it is in much higher pay scale than Rs.700-1500. The respondent has taken work from the petitioner on the post of higher pay scale and even though he may not be entitled for that pay scale atleast he may be entitled for difference of salaries for the period he worked on the higher post. Be that as it may, it is a matter to be considered by the respondent, but they have even not chosen to file reply to the Special Civil Application. Not only that, nobody is present on behalf of the respondent to make oral submissions. Though I do not consider to be appropriate to decide the matter in absence of reply in the matter by respondent, at the same time, the petitioner cannot be left without any adjudication of his claim by the appropriate authority.

3. Taking into consideration the totality of the facts of the case, interest of justice will be met in case this Special Civil Application is disposed of in terms that the petitioner, regarding the claim which he has been made in this Special Civil Application, may submit a representation to the respondent within a period of fifteen days from the date of receipt of copy of this order and in case such representation is made, the respondent shall decide the same within a period of two months from the date of receipt thereof. If the petitioner so desires, he may be given opportunity of personal hearing. In case the claim of the petitioner is accepted, the petitioner shall be entitled for all

consequential benefits following therefrom and all such benefits may be given to the petitioner within a period of two months next. Where the claim of the petitioner is not acceptable, the respondent may pass a reasoned order and send a copy of the same to the petitioner by registered post A.D. Liberty is granted to the petitioner for revival of this Special Civil Application in case of difficulty. The Special Civil Application and Rule stands disposed of accordingly with no order as to costs.

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(sunil)